

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

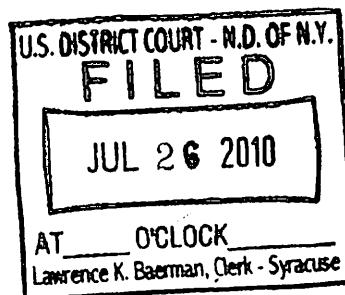
MARY M. IOCVOZZI,

Plaintiff,

-against-

VILLAGE OF HERKIMER,  
MARK M. AINSWORTH, Mayor,  
VILLAGE BOARD OF TRUSTEES,  
DAVID KUEHNLE, Codes Enforcement  
Officer Village of Herkimer,

Civil Action No. 6:10-CV-0687 (NAM/ATB)



Defendants.

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#### STIPULATION OF SETTLEMENT

Plaintiff filed this action on June 12, 2010 for declaratory and temporary and permanent injunctive relief to enjoin the enforcement of "Section 7, Temporary/Special Signs of Local Law Amending the local ordinances to of 1961 regulating the construction, erection, maintenance and use of signs, Local Law No. 1 of the year 2009, Village of Herkimer", adopted on or about July 6, 2009. Said ordinance prohibits the installation of political signage which is in "excess of 5 square feet per sign face in height from ground 34 inches" and which also limits a permitted duration of said display no later than 7 days after the final election. The ordinance subjects violators to \$100.00 per day fines and the cost of removal of any volatile signs by village officials. Plaintiff claims that the challenged ordinance is a content-based restriction on political speech that violates the First Amendment and Article 1, Section 8 of the New York State Constitution. *28 U.S.C. §§ 1331(a), 1343(a)(3), 1367, 2201, 2202; Rules 57 and 65 of the Federal Rules of Civil Procedure.*

Subsequently, Defendant Board of Trustees of the Village of Herkimer suspended enforcement of the ordinance due to the pending litigation on June 21, 2010.

Honorable Norman A. Mordue, Chief U.S. District Judge, denied the request for a preliminary injunction, finding that the Plaintiff did not demonstrate irreparable harm given the Village's subsequent suspension of the enforcement of the ordinance. *July 12, 2010 Memorandum – Decision and Order (entered July 13, 2010)*. A Case Management Conference is scheduled for August 4, 2010.

In full settlement of the claims and defenses set forth in the Complaint and Answer, the parties stipulate to the following:

- (1) The Village of Herkimer has suspended and will continue to suspend all enforcement of the sign ordinance as to political speech, including campaign signs, until it is repealed.
- (2) The Village of Herkimer will pay fees and costs of forty-five hundred dollars (\$4500.00) as follows:
  - (i) \$400.00 to Plaintiff Mary Iocovozzi as reimbursement for the court filing fee and process server charges.
  - (ii) \$4100.00 to Carol Malz, Esq., for representation of Plaintiff Mary Iocovozzi.

So agreed this 22nd day of July, 2010.

/s/ Carol Malz

/s/ Bart M. Carrig

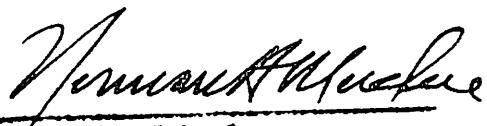
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Bart M. Carrig, Esq. Bar Roll No. 301504  
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**IT IS SO ORDERED.**

  
Norman A. Mordue  
Chief Judge  
Dated July 26, 2010